

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE BEAR'S CLUB DEVELOPMENT CO.,
THE BEAR'S CLUB BUILDERS LLC;
BEAR'S CLUB MANAGEMENT CORP.;
CLARENDON PROPERTIES GROUP, INC;
THE BEAR'S CLUB FOUNDING PARTNERS, LTD;
IVAN CHARLES FREDERICKSON;
IRA FENTON; and
ROBERT B. WHITLEY

Defendants.

_____ /

COMPLAINT

The United States of America, through its undersigned attorneys, by the authority of the Attorney General, and at the request of the Secretary of the United States Department of the Army, acting through the United States Army Corps of Engineers ("Corps"), alleges as follows:

NATURE OF THE ACTION

1. This is a civil action commenced under section 404(s) of the Clean Water Act ("CWA"), 33 U.S.C. § 1344(s), to obtain injunctive relief and civil penalties against The Bear's Club Development Co.; The Bear's Club Builders, LLC; Bear's Club Management Corp.; Clarendon Properties Group, Inc.; The Bear's Club Founding Partners, LTD; Ivan Charles Frederickson; Ira Fenton; and Robert B. Whitley (collectively, the "Defendants") for causing

conditions or limitations of Department of the Army Permit Number SAJ-1998-03497 (IP-TA) to be violated.

2. In this action, the United States seeks to obtain: (a) declaratory relief that the Defendants violated, and continue to violate, the CWA; (b) injunctive relief permanently prohibiting the Defendants from further unlawful discharges of pollutants; (c) injunctive relief compelling the Defendants to perform all outstanding conditions or limitations of Department of the Army Permit Number SAJ-1998-03497 (IP-TA); (d) injunctive relief directing the Defendants to mitigate the damages caused by their violations of the CWA; and (e) civil penalties in favor of the United States and against the Defendants.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to section 404(s) of the CWA, 33 U.S.C. § 1344(s), and 28 U.S.C. §§ 1331, 1345, 1355, and 2201.

4. Venue is proper in the Southern District of Florida pursuant to 404(s) of the CWA, 33 U.S.C. § 1344(s), and 28 U.S.C. § 1391(b) and (c), because the Defendants conduct business in this District, and the causes of action alleged in this Complaint arose in this District.

5. The United States provided notice of the commencement of this action to the State of Florida.

PARTIES

6. Plaintiff is the United States of America, and authority to bring this action is vested in the United States Department of Justice pursuant to 28 U.S.C. §§ 516 and 519, and 33 U.S.C. § 1366, and in the Secretary of the United States Department of the Army pursuant to 33 U.S.C. § 1344(s).

7. Defendant, The Bear's Club Development Co., also known as The Bear's Club

Development Co., Inc, also known as The Bear's Club Development Inc., also known as The Bear's Club Development Company, also known as The Bear's Club Development Corporation, holds itself out to be a Florida General Partnership and is the sole managing partner of Bear's Club Builders, LLC. The Bear's Club Development Co. has a business address of 11601 Kew Gardens Avenue, Suite 101, Palm Beach Gardens, Florida 33410.

8. Defendant, Bear's Club Builders, LLC, is a Florida Limited Liability Company organized under the laws of Florida with a business address of 11601 Kew Gardens Avenue, Suite 101, Palm Beach Gardens, Florida 33410.

9. Defendant, The Bear's Club Founding Partners, LTD, is a Florida Limited Partnership organized under the laws of Florida with a business address of 11601 Kew Gardens Avenue, Suite 101, Palm Beach Gardens, Florida 33410. The Bear's Club Founding Partners, LTD operates a membership sports and recreation club, specialized as a golf club.

10. Defendant, Bear's Club Management Corp., is a Florida Profit Corporation organized under the laws of Florida and is the sole managing partner of The Bear's Club Founding Partners, LTD. Bear's Club Management Corp. has a business address of 11601 Kew Gardens Avenue, Suite 101, Palm Beach Gardens, Florida 33410.

11. Defendant, Clarendon Properties Group, Inc., formerly known as Whitley Development Group, Inc., is a Florida Profit Corporation organized under the laws of Florida and a general partner of The Bear's Club Development Co. Clarendon Properties Group, Inc. has a business address of 11601 Kew Gardens Avenue, Suite 101, Palm Beach Gardens, Florida 33410.

12. Defendant, Ivan Charles Frederickson, also known as Tucker Frederickson, is the

Senior Vice President of Clarendon Properties Group, Inc.

13. Defendant, Ira Fenton, is a partner and Vice President of The Bear's Club Development Co. and a Vice President of The Bear's Club Management Corp.

14. Defendant, Robert B. Whitley, is the president of Clarendon Properties Group, Inc.

15. At all times relevant to the Complaint, one or more of the Defendants either owned, leased or otherwise controlled the real property that is the subject of this Complaint and/or otherwise controlled the activities that occurred on such property.

STATUTORY BACKGROUND

16. CWA section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters except in compliance with, inter alia, a permit issued pursuant to CWA section 404, 33 U.S.C. § 1344.

17. CWA section 404(a), 33 U.S.C. § 1344(a), authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill material into navigable waters at specified disposal sites, after notice and opportunity for public comment.

18. CWA section 502(5), 33 U.S.C. § 1362(5), defines "person" to include "an individual [or] corporation."

19. CWA section 404(s), 33 U.S.C. § 1344(s), authorizes the commencement of a civil action for appropriate relief, including a permanent or temporary injunction, against any person in violation of any condition or limitation set forth in a permit issued by the Secretary of the Army under CWA section 404, 33 U.S.C. § 1344.

20. CWA section 404(s), 33 U.S.C. § 1344(s), also authorizes the commencement of an action for civil penalties against any person who violates any condition or limitation in a permit issued by the Secretary of the Army under CWA section 404, 33 U.S.C. § 1344.

ALLEGATIONS APPLICABLE TO COUNT ONE

21. In 1998, Hartsel Ranch Corp., owned or controlled real property located north of Donald Ross Road and east of Old Dixie Highway (Alternate A1A), in Section 19, Township 41 south, Range 43 east, Jupiter, Palm Beach County, Florida.

22. The property spanned approximately 369.2 acres in size.^{1/}

23. The Site contains, or did contain at all times relevant to this Complaint, wetlands.

24. Wetlands on the Site constitute, or did constitute at all times relevant to this Complaint, “waters of the United States” and “navigable waters” under section 502(7) of the CWA, 33 U.S.C. § 1362(7).

^{1/} For the remainder of this Complaint, the property will be referred to as the “Site.”

25. In 1998, The Bear's Club Development Co., Inc., applied to the Corps for a permit under section 404 of the CWA, 33 U.S.C. § 1344.

26. Robert Whitley, President of Clarendon Properties Group, Inc., a partner of The Bear's Club Development Co., signed the permit application.

27. In 1999, after notice and opportunity for public comment, the Corps proffered a permit.

28. On or about January 20, 1999, Ivan Frederickson, Senior Vice President of Clarendon Properties Group, Inc., a partner of The Bear's Club Development Co. signed the proffered permit for The Bear's Club Development, Inc.

29. On or about January 20, 1999, the Corps countersigned the proffered permit.

30. On or about January 20, 1999, the Corps issued Department of the Army Permit Number SAJ-1998-03497 (IP-TA).

31. A true and correct copy of Department of the Army Permit Number SAJ-1998-03497 (IP-TA) is attached to this Complaint as Exhibit 1 and is incorporated herein by reference.^{2/}

32. The Permit listed "The Bear's Club Development, Inc." as the permittee.

33. The Permit stated: "The term 'you' and its derivatives, as used in this permit, means the permittee or any future transferee."

34. The Permit stated: "You are authorized to perform work in accordance with the terms and conditions specified [by the Permit]."

^{2/} For the remainder of this Complaint, Department of the Army Permit Number SAJ-1998-03497 (IP-TA) will be referred to as the "Permit."

35. The purpose of the work authorized by the Permit was to construct a residential golf development now known as “The Bear’s Club.”

36. The Permit stated that the project was “to place 60,000 cubic yards of fill over 15.11 acres and to excavate 14,000 cubic yards of material from 1.07 acres of waters of the United States.”

37. Special Condition 8 of the Permit stated: “The Department of the Army permit acknowledges that the mitigation sites as shown on sheet 10 of 13 will be placed under a conservation easement. Within 60 days of the date of this permit the permittee will provide the Stuart Regulatory Office with a copy of the draft document to be reviewed by Counsel. The permittee will ensure that the area to be preserved will not be disturbed by any dredging, filling, land clearing, agricultural activities, or any other construction work whatsoever except for that which is necessary to complete the mitigation. Upon completion of the mitigation sites and at the cessation of the five-year monitoring period, the preserved areas shall not be disturbed by any of the above activities except for the removal of exotic vegetation which shall be performed in perpetuity. The permittee agrees that the only future utilization of the subject preserved areas will be as a purely natural area. A copy of the recorded conservation easement should be submitted to the Stuart Regulatory Office within 30 days of its recording.”

38. The “sheet 10 of 13” referenced in Paragraph 37 of this Complaint was attached to and made part of the Permit as “DRAWING PAGE 10 OF 13.”^{3/}

39. Permit Drawing Page 10 of 13 depicts wetlands identified as numbers 14, 14A,

^{3/} For the remainder of this Complaint, the “sheet 10 of 13” and “DRAWING PAGE 10 OF 13” will be referred to as “Permit Drawing Page 10 of 13.”

and 17 to be protected under the conservation easement required by special condition 8 of the Permit.

40. Beginning on or about January 20, 1999 the Defendants or persons acting on their behalf discharged dredged or fill material from a discernible, defined, and discrete conveyance into 15.11 or greater acres of wetlands at the Site.

41. In 1999 The Bear's Club Development Co. requested that the Corps modify the Permit to authorize the discharge of fill material into an additional 0.97 acres of wetlands, including parts of wetlands 14A and 17.

42. The purpose of the 1999 permit modification request was "to increase the size of the residential lots, upland buffer, to realign a road and driveway, and to meet project stormwater retention requirements."

43. On April 19, 2001 the conservation easement required by special condition 8 of the Permit was granted by The Bear's Club Founding Partners, Ltd. to the Northern Palm Beach County Improvement District.

44. On November 14, 2001, the Corps granted the 1999 request by The Bear's Club Development Co. to modify the Permit.

45. Beginning on or about November 14, 2001 the Defendants or persons acting on their behalf discharged dredged or fill material from a discernible, defined, and discrete conveyance into 0.97 or greater acres of wetlands at the Site.

46. On June 3, 2002, The Bear's Club Development Co. requested that the Corps modify the Permit to authorize the discharge of fill material into an additional 1.96 acres of jurisdictional wetlands.

47. The Bear's Club Development Co.'s purpose for the 2002 permit modification request was "to construct a par three golf course."

48. On September 27, 2002, the Corps granted the 2002 request by The Bear's Club Development Co. to modify the Permit.

49. Beginning on or about September 27, 2002, the Defendants or persons acting on their behalf discharged dredged or fill material from a discernible, defined, and discrete conveyance into 1.96 or greater acres of wetlands at the Site.

50. On July 1, 2009, The Bear's Club Development Co. submitted an application for a third modification of the Permit to authorize additional discharges of fill material into wetlands 14, 14A, and 17.

51. The Bear's Club Development Co.'s stated purposes for the 2009 permit modification request were (1) to improve golf on the Club's 15th hole by discharging fill material into wetland 14A and moving the tee box adjacent to wetland 14 by discharging fill material into wetland 14, and (2) to accommodate the development of five residential lots by discharging fill into wetland 17.

52. It is believed that The Bear's Club Development Co. had an economic motive for seeking modification of the permit in 2009, to allow for the discharge fill material into wetlands 14 and 14A.

53. The initiation fee for a golf membership in The Bear's Club is believed to be \$90,000.00 and the annual dues for the golf membership for The Bear's Club are believed to be \$25,000. The Club is believed to have 270 members.

54. On September 2, 2009, the Jacksonville District of Corps responded to the 2009

modification request and stated: “By action of this letter your request will be withdrawn.”

55. On September 23, 2009, The Bear’s Club Development Company sent a letter to the Chief of the Regulatory Division of the Jacksonville District of the Corps requesting that the Corps reconsider its “unilateral withdrawal.”

56. On October 23, 2009, the Chief of the Regulatory Division of the Jacksonville District of the Corps responded to The Bear’s Club Development Co. clarifying that pursuant to 33 CFR 325.7(a) the District Engineer was exercising his discretion not to reevaluate the Permit.

57. On December 7, 2009, The Bear’s Club Development Co. requested that the District Engineer of the Jacksonville District of the Corps reevaluate the Permit.

58. On January 20, 2010, the District Engineer of the Jacksonville District of the Corps reiterated to The Bear’s Club Development Co. that he was exercising his discretion not to reevaluate the Permit and clarified his basis for not doing so.

59. On March 17, 2010, The Bear’s Club Development Co., filed a Request for Appeal of the District Engineer’s exercise of discretion not to reevaluate the Permit with the Division Engineer for the South Atlantic Division of the Corps.

60. On April 20, 2010, the Division Engineer for the South Atlantic Division of the Corps notified The Bear’s Club Development Co. that the District Engineer’s exercise of discretion not to reevaluate the Permit was not an appealable action.

61. In spite of the Corps’ decision not to modify The Bear’s Club Development Co.’s Permit, in or about October of 2010, one or more of the Defendants or persons acting on their behalf discharged dredged or fill material into wetlands 14 and 14A at the Site, for the purposes The Bear’s Club Development Co. had identified in its September 2, 2009 permit modification

request.

62. One or more of the Defendants either owned, leased or otherwise controlled the property subject to the Permit and its conditions.

63. One or more of the Defendants conducted, contracted for, supervised and/or otherwise controlled the activities violating the Permit and its conditions.

64. Defendants are persons within the meaning of CWA section 502(5), 33 U.S.C. § 1362(5).

65. On October 27, 2010, the Corps was notified by the South Florida Water Management District that dredged or fill material had been discharged into wetlands 14 and 14A.

66. On October 29, 2010, the Corps transmitted to The Bear's Club Development Co. a Notice of Noncompliance.

67. To date, the dredged or fill material that Defendants discharged into wetland 14A to improve golf on the Club's 15th hole remains in place.

68. To date, the dredged or fill material that Defendants discharged into wetland 14 to move the tee box adjacent to wetland 14 remains in place.

69. Each day that such material remains in place constitutes a separate violation of the Permit and CWA section 404(s), 33 U.S.C. § 1344(s).

70. To date, the parts of wetlands 14 and 14A into which Defendants discharged dredged or fill material remain protected by the conservation easement granted by The Bear's Club Founding Partners, Ltd. to the Northern Palm Beach County Improvement District.

71. To date, the parts of wetlands 14 and 14A into which Defendants discharged dredged or fill material are required by special condition 8 of the Permit to be utilized as purely

natural areas.

COUNT ONE: VIOLATION OF CONDITION OR LIMITATION OF A PERMIT

72. The United States repeats and realleges the allegations set forth in Paragraphs 1 through 72 of this Complaint.

73. Defendants have violated and continue to violate one or more conditions or limitations of the Permit.

74. The activities alleged in Paragraph 61 of this Complaint were not in compliance with section 404 of the CWA, 33 U.S.C. § 1344, because one or more conditions of the Permit were, and are not being, satisfied.

75. Defendants are liable for injunctive relief and civil penalties under section 404(s) of the CWA, 33 U.S.C. § 1344(s).

76. Unless enjoined, Defendants are likely to continue to violate the Permit and the CWA.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court order the following relief:

Declare that the Defendants violated, and are in violation of, the CWA at the Site;

Permanently enjoin the Defendants from discharging pollutants unless their activities are in compliance with the CWA;

Compel the Defendants to comply with all of the outstanding conditions or limitations of Department of the Army Permit Number SAJ-1998-03497 (IP-TA), including but not limited to

the conditions or limitations concerning the preservation of wetlands at the Site;

Direct the Defendants to undertake measures, at the Defendants' own expense and at the direction of the Corps, to mitigate the damages caused by their violations of the Permit and the CWA;

Assess the Defendants civil penalties pursuant to section 404(s) of the CWA, 33 U.S.C. §1344(s), for each day for each violation of the Permit and the CWA;

Award the United States costs and disbursements in this action; and grant the United States such other relief as the Court may deem just and proper.

Miami, Florida

October 20, 2015

Respectfully submitted,

WILFRED A. FERRER
UNITED STATES ATTORNEY

JOHN C. CRUDEN
ASSISTANT ATTORNEY GENERAL

By: /s/ Carlos Raurell
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U.S. Army Corps of Engineers
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Attorneys for the United States of America



Permit
Number: 199863497

Conversion services provided by:

MICROGRAPHICS

The Information and Image Managers
1925-A NW Second Street
Gainesville, FL 32609

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On-line: www.micrographicsinc.com



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
STUART REGULATORY OFFICE
P.O. BOX 2391
STUART, FLORIDA 34995

Regulatory Division
South Permits Branch
Stuart, Florida 34995
199803497 (IP-TA)

JAN 20 1999

The Bear's Club Development
2000 PGA Boulevard, Suite 2204
North Palm Beach, Florida 33408

Dear Gentlemen:

We are pleased to enclose the Department of the Army permit and a Notice of Authorization which should be displayed at the construction site. Work may begin immediately but the South Permits Branch Chief, as representative of the District Engineer, must be notified of:

- a. The date of commencement of the work,
- b. The dates of work suspensions and resumptions of work if suspended over a week, and
- c. The date of final completion.

The Branch Chief is responsible for inspections to determine that permit conditions are strictly adhered to. A copy of the permit and drawings must be available at the site of work.

IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.

Sincerely,

John R. Hall
John R. Hall
Chief, Regulatory Division

Enclosures

bcc (permit w/plans):
EPA, Atlanta
FWS, Vero Beach
FWMD, West Palm Beach
CESAJ-RD-E

Agramonte/CESAJ-RD-SV

Ferrell/CESAJ-RD-S

Hall/CESAJ-RD

This notice of authorization must be conspicuously displayed at the site of work

United States Army Corps of Engineers EXPIRES: 20 January 2004

A permit to fill 15.11 acres and to excavate 1.07 acres of waters of the United States

in Sections 19 and 20, Township 41 South, Range 43 East, Palm Beach County, Florida

has been issued to The Bear's Club Development, Inc.

on 20 January 1999

Address of Permittee: 2000 PGA Blvd., Suite 2204
North Palm Beach, Florida 33014

199803497(IP-TA)

Jori Capomonte
Joe R. Miller for
Colonel, U.S. Army
District Engineer

DEPARTMENT OF THE ARMY PERMIT

(DUPLICATE)

Permittee: THE BEAR'S CLUB DEVELOPMENT, INC.

Permit No. 199803497(IP-TA)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To place 60,000 cubic yards of fill over 15.11 acres and to excavate 14,000 cubic yards of material from 1.07 acres of waters of the United States. The project is as shown and described on the attached plans numbered 199803497(IP-TA) in 13 sheets, dated 20 January 1999.

Project Location: The project is located within waters of the United States in Sections 19 and 20, Township 41 South, Range 43 East, Palm Beach County, Florida.

Geographic Position: Latitude 26°53'30" North
Longitude 80°05'00" West

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 20 January 2004. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good

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PERMITTEE: THE BEAR'S CLUB DEVELOPMENT, INC.
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faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Within 60 days of the date of the issuance of this permit, the permittee will contribute funding to Palm Beach County for the purchase, restoration, and long-term management of 42 acres in Unit 11. Proof of the transfer of funds shall be submitted to the Jacksonville District, Stuart Regulatory Office, within the 60-day time frame.

2. Within 1 year of the date of the issuance of this permit, the permittee will create 2.5 and enhance 39.69 of acres of wetlands as shown on sheet 10 of 13 of the attached drawings/plans. The creation areas shall be planted with those species listed on 11 and 12 of 13 of the attached plans. Within five years of the

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date of the issuance of this permit, the mitigation site shall achieve WRAP scores as projected on sheet 13 of 13 the attached sheets (1997 edition).

3. The permittee must furnish the Jacksonville District i.e., Stuart Regulatory Office with monitoring reports for the mitigation area describing: a) the WRAP scores for the mitigation sites, b) percent survival of planted species, c) recruitment density and composition, and d) percent cover. The data must be collected and submitted annually for a period of five years following initial planting. Reports to the Stuart Office must include photographs with reference points, descriptions of problems encountered, and resolutions.

4. Successful establishment of wetland plantings will have occurred when: a) at least 80% of planted individuals in each species have survived and are showing signs of normal annual growth, b) at least 80% coverage by appropriate wetland herbaceous species has been obtained, and c) the above criteria have been achieved by the end of a five-year period following initial planting.

5. If successful establishment of wetland vegetation has not occurred as stated above or if the mitigation WRAP scores are less than what has been projected in sheet 13 of 13, the permittee must apply to the Corps for a permit modification no later than 30 days following the termination of the five-year monitoring period. The application must include a narrative describing the type and causes of failure and contain a complete plan for correction. Within 30 days of the Corps approval of a permit modification, the permittee must implement the corrective actions. Following completion of corrective work, success criteria as stated above or as modified by subsequent permit must again be achieved. In addition, the monitoring required by these conditions must be conducted.

6. Within 30 days of any monitoring event that indicates 50% or greater mortality of planted wetland species, the applicant must submit a remediation proposal for review and approval.

7. Within the mitigation areas exotic vegetation will be maintained at 0% and nuisance vegetation will be maintained at a total coverage of 5% or less.

8. The Department of the Army permit acknowledges that the mitigation sites as shown on sheet 10 of 13 will be placed under

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a conservation easement. Within 60 days of the date of this permit the permittee will provide the Stuart Regulatory Office with a copy of the draft document to be reviewed by Counsel. The permittee will ensure that the area to be preserved will not be disturbed by any dredging, filling, land clearing, agricultural activities, or any other construction work whatsoever except for that which is necessary to complete the mitigation. Upon completion of the mitigation sites and at the cessation of the five-year monitoring period, the preserved areas shall not be disturbed by any of the above activities except for the removal of exotic vegetation which shall be performed in perpetuity. The permittee agrees that the only future utilization of the subject preserved areas will be as a purely natural area. A copy of the recorded conservation easement should be submitted to the Stuart Regulatory Office within 30 days of its recording.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

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3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures

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PERMITTEE: THE BEAR'S CLUB DEVELOPMENT, INC.
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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Tuck Freduh
(PERMITTEE)

1-20-99
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Jori Agamonte
(DISTRICT ENGINEER)
JOE R. MILLER
Colonel, U.S. Army

1/20/99
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

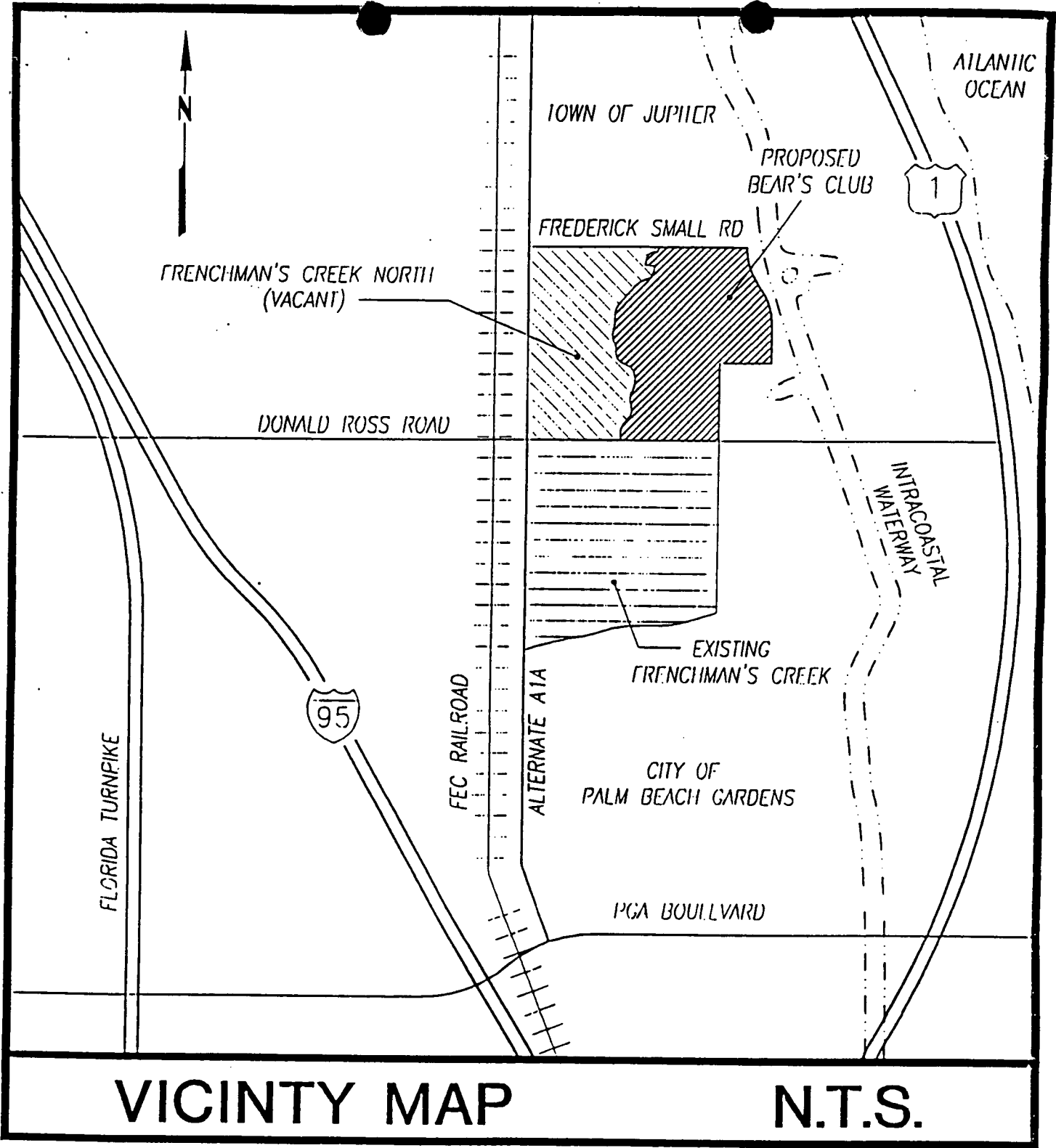
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

PERMIT NUMBER: 199803497(IP-TA)
PERMITTEE: THE BEAR'S CLUB DEVELOPMENT, INC.
PAGE 8 of 8

DEPARTMENT OF THE ARMY PERMIT

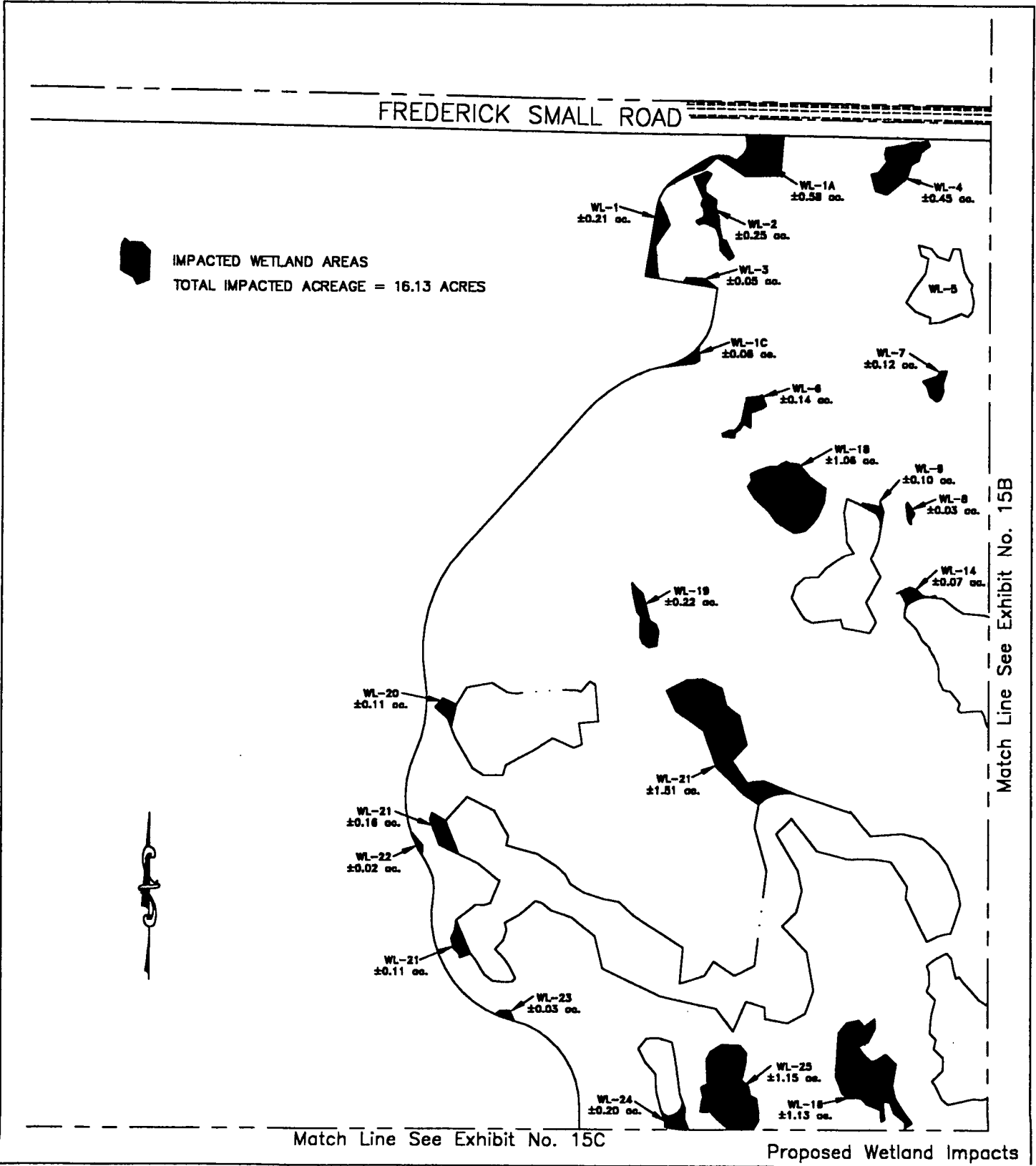
**Attachments to Department of the Army
Permit Number 199803497(IP-TA)**

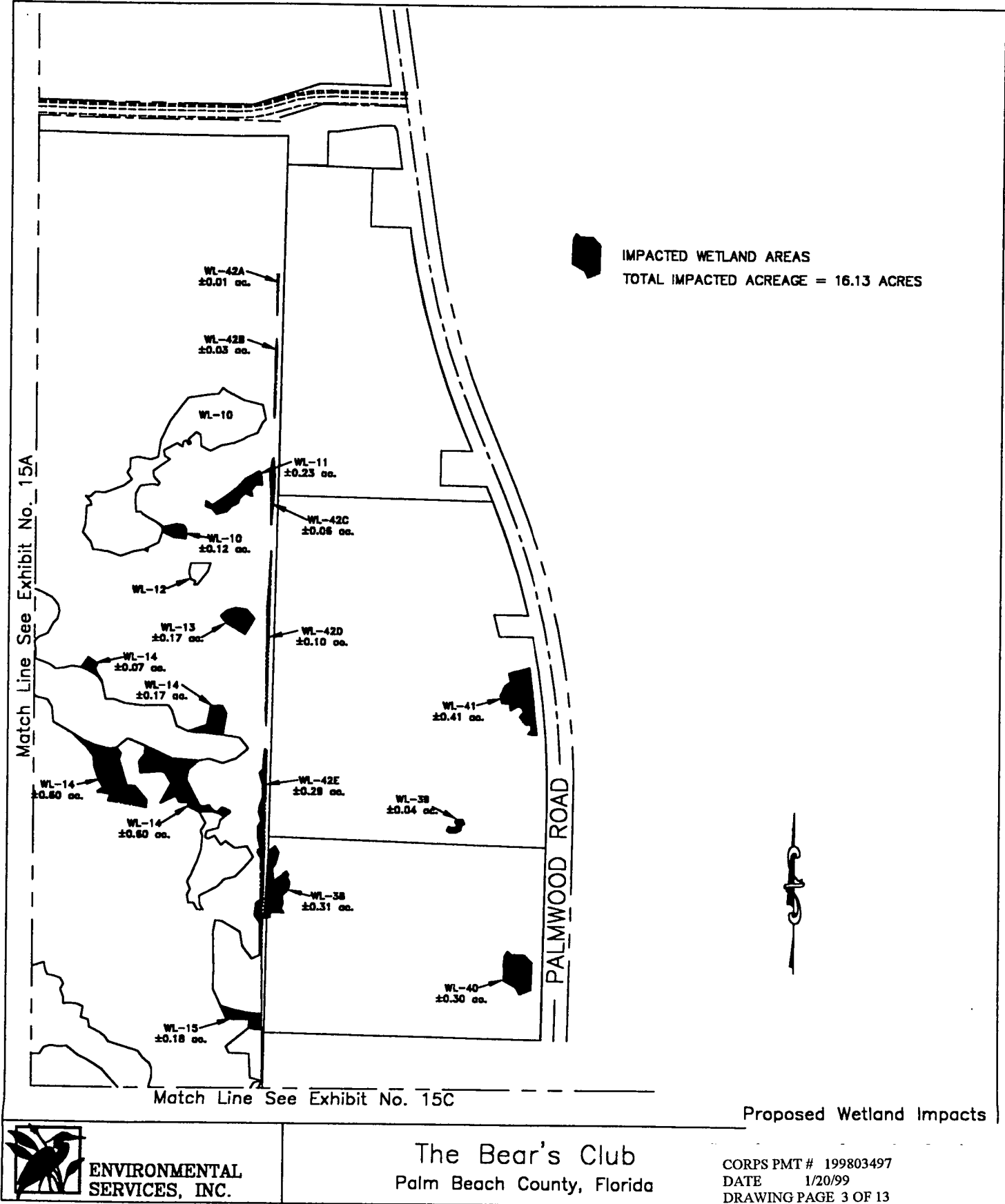
1. PERMIT DRAWINGS: 13 pages, dated 20 January 1999
2. WATER QUALITY CERTIFICATION: In accordance with General Condition number 5 on page 2 of this DA permit, the State Department of Environmental Protection Water Quality Certificate Specific conditions consist of 6 pages.

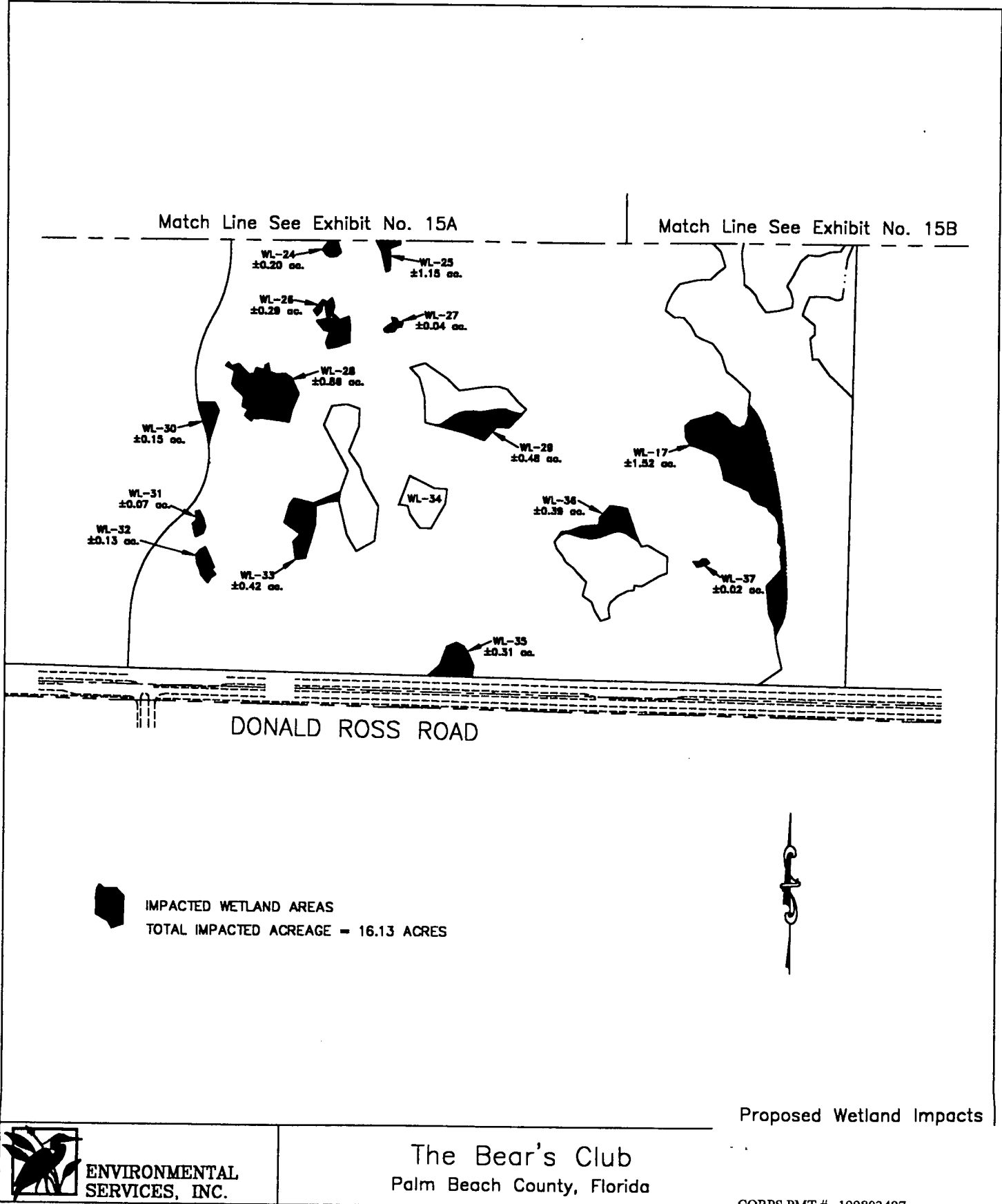


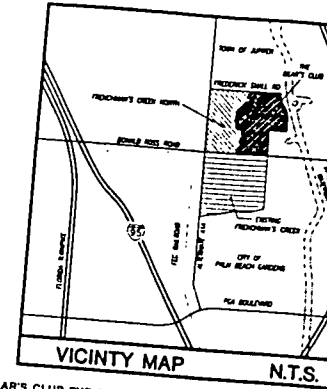
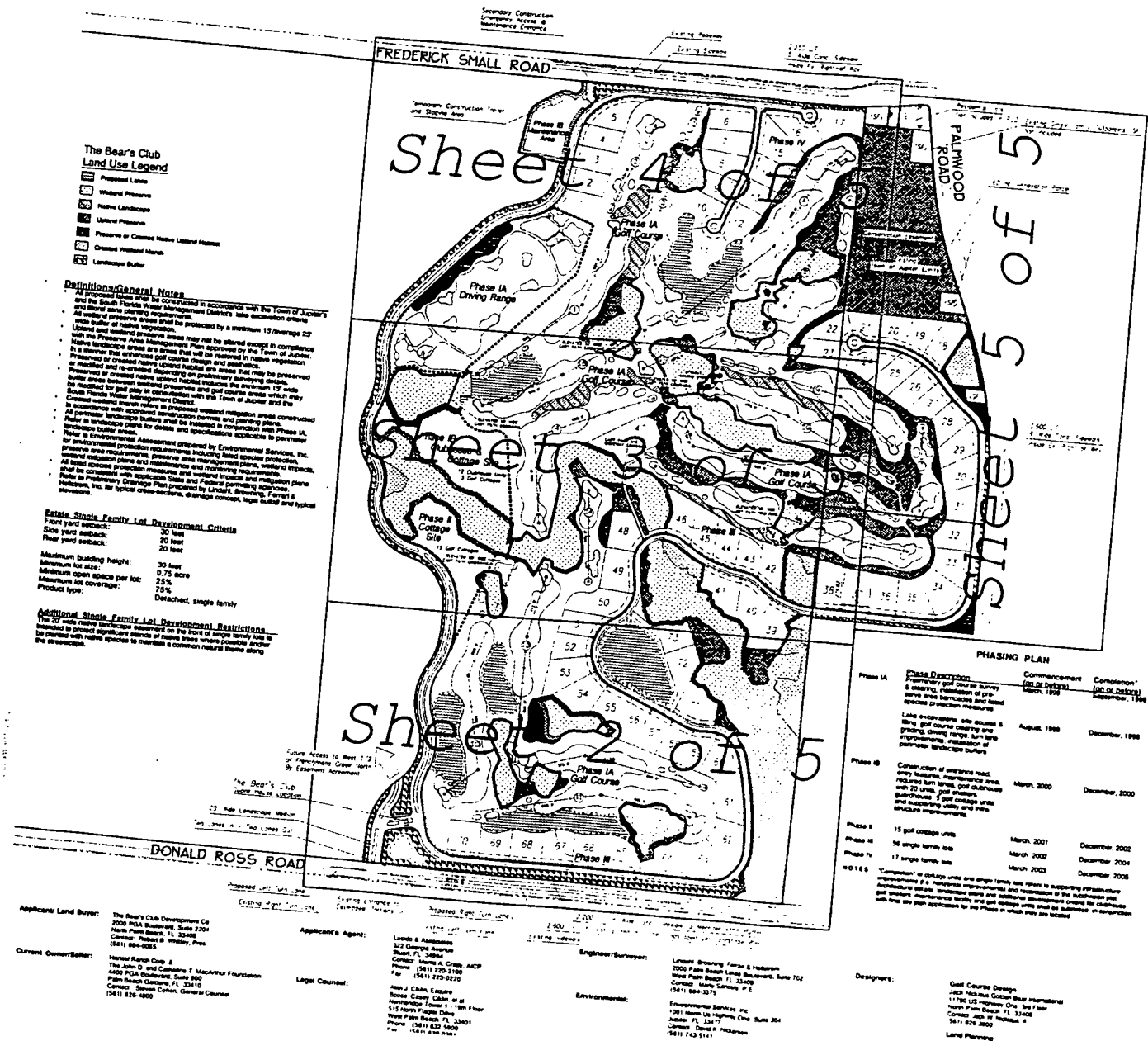
LOCATION MAP

EXHIBIT No. 1









THE BEAR'S CLUB PUD SITE DATA

Total Project Area:	388.9 acres
East 1/2 of Furman's Creek Ranch:	227 acres
Amnussen Farm:	61.2 acres
Total Residential Units:	113
East 1/2 Single Family Lots:	73
Chaletous units and golf cottages:	40
Gross Residential Density:	0.3 units per acre
Existing Land Use Designation:	Residential (Town Of Jupiter)
Amnussen Farm:	Low Density Residential (Farm Beach County)
Proposed Land Use Designation:	Low Density Residential (Town Of Jupiter)
Existing Zoning:	NZ (Town Of Jupiter)
Amnussen Farm:	AR (Farm Beach County)
Proposed Zoning:	RS-1PUD (Farm Beach County)
	RS-1PUD (Town Of Jupiter)

[illegible]

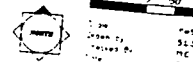
NOTE: All area calculations are approximate and based on surveyed

Lucido & Associates
Land Planning/Landscape Architect
10000 Wilshire Blvd., Suite 1000
Beverly Hills, CA 90210
(310) 276-1100

Land Planning/Landscape Architecture
 122 Georgia Avenue, Stuart, Florida 34904 (301) 220-2100 Fax (301) 222-0026
 100 Avenue A Suite 24, Fort Pierce, Florida 34906 (301) 667-1301, Fax (301) 667-1306
 600 Highland Avenue, Orlando, Florida 32808 (407) 630-3701 Fax (407) 679-0900

The Bear's Club PUD
Town of Jupiter, Palm Beach County, Florida
Key Street

Key Sheet

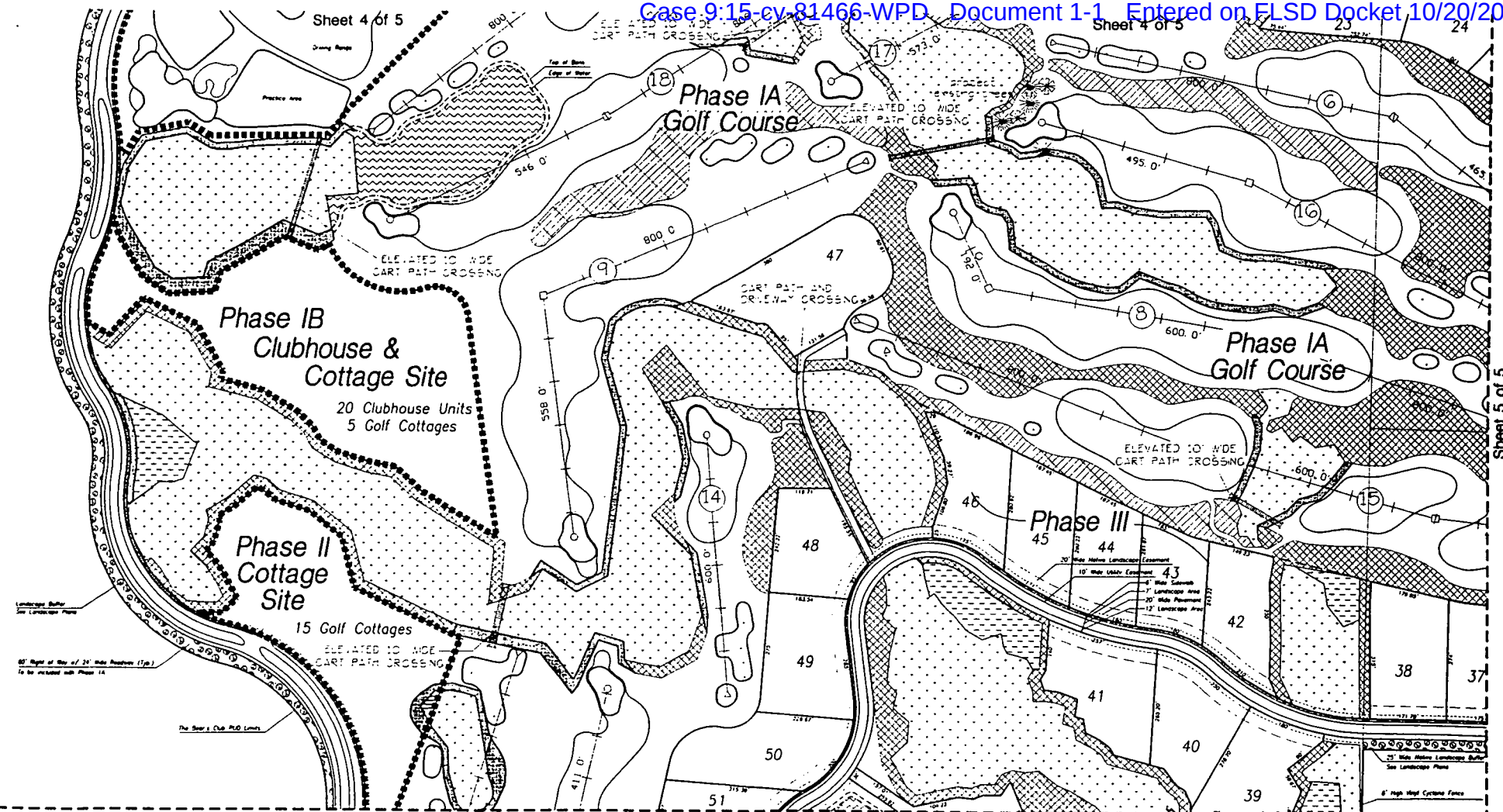


Sheet 1 of 5

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File Number	5409
File Number	3489

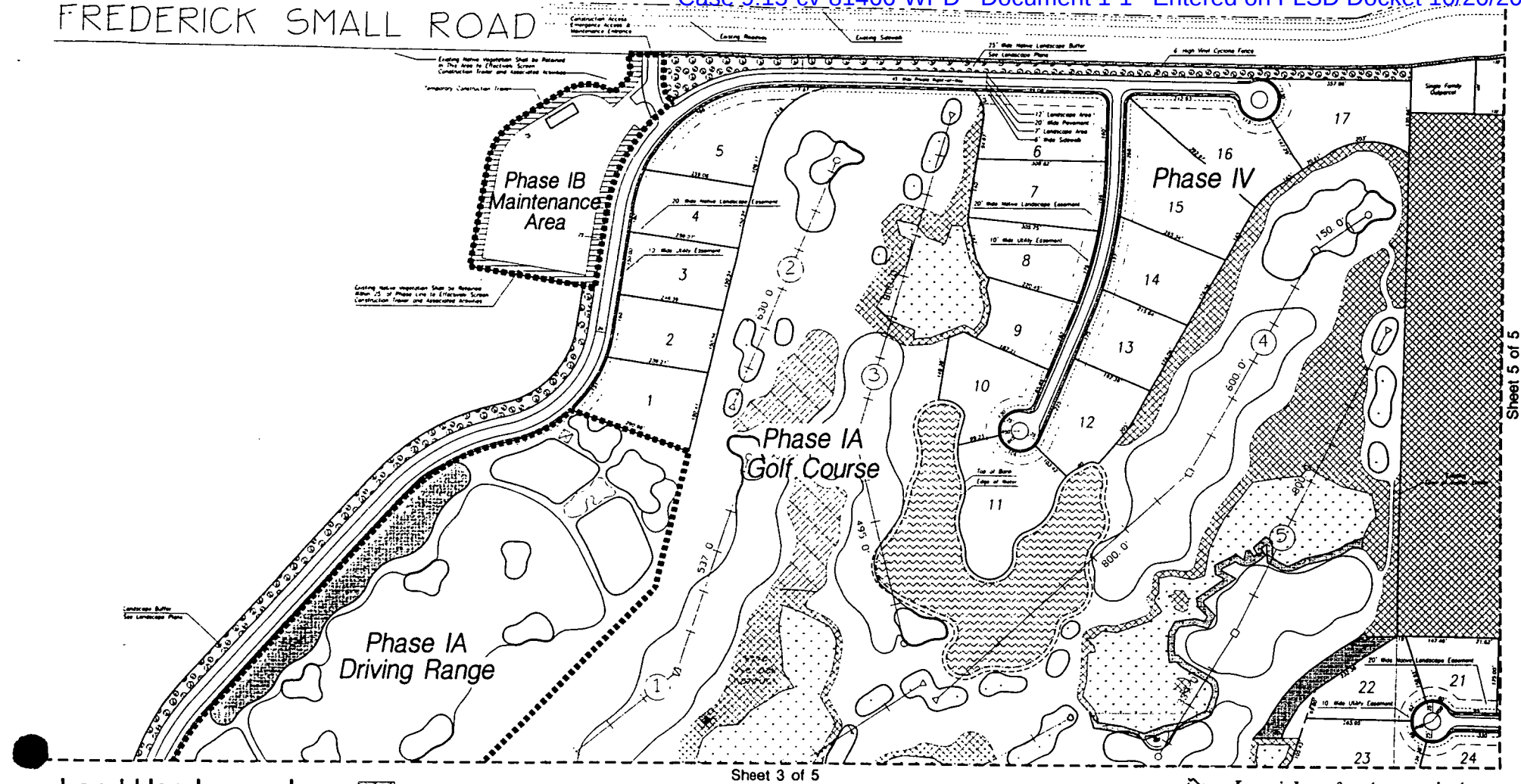
CORPS PMT # 199803497
DATE 1/20/99
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DATE 1/20/99
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FREDERICK SMALL ROAD



Land Use Legend

	Proposed Lakes		Upland Preserve
	Wetland Preserve		Preserve or Created Native Upland Habitat
	Native Landscape		Created Wetland Marsh
			Landscape Buffer

Note:
Refer to Sheet 1 of 5 for PUD site data, phasing,
area calculations, applicable development criteria,
definitions, lot development restrictions and
general notes.



Lucido & Associates

Land Planning/Landscape Architecture
3000 Highway 1, Suite 200, Palm Beach, Florida 33480-1000
Tel: (561) 857-1200 Fax: (561) 857-1201
www.lucidoassociates.com

The Bear's Club PUD
Town of Jupiter, Palm Beach County, Florida

Site Plan

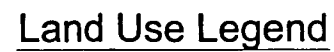
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Drawn by: SLS
Checked by: TJC
Date: 5/1/99

Sheet 4 of 5

Computer File: 9405C23
Station: 51.5
Page Number: 9405
Job Number: 9405

CORPS PMT # 199803497
DATE 1/20/99
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-
- | | |
|---|-----------------------------------|
|  | Proposed Lakes |
|  | Wetland Preserve |
|  | Native Landscape |
|  | Upland Preserve |
|  | Preserve or Created Native Upland |
|  | Created Wetland Marsh |
|  | Landscape Buffer |

Note:
Refer to Sheet 1 of 5 for PUD site data, phasing, area calculations, applicable development criteria, definitions, lot development restrictions and general notes.

Lucido & Associates

Land Planning/Landscape Architecture
322 Georgia Avenue, Stuart, Florida 34906 (561) 886-5100, Fax (561) 883-0886
100 Avenue A Suite 66, Fort Pierce, Florida 34906 (561) 657-1301, Fax (561) 657-1206
600 Highland Avenue, Orlando, Florida 32803 (407) 830-3701, Fax (407) 976-0200

The Bear's Club PUD
Town of Jupiter, Palm Beach County, Florida

Site Plan



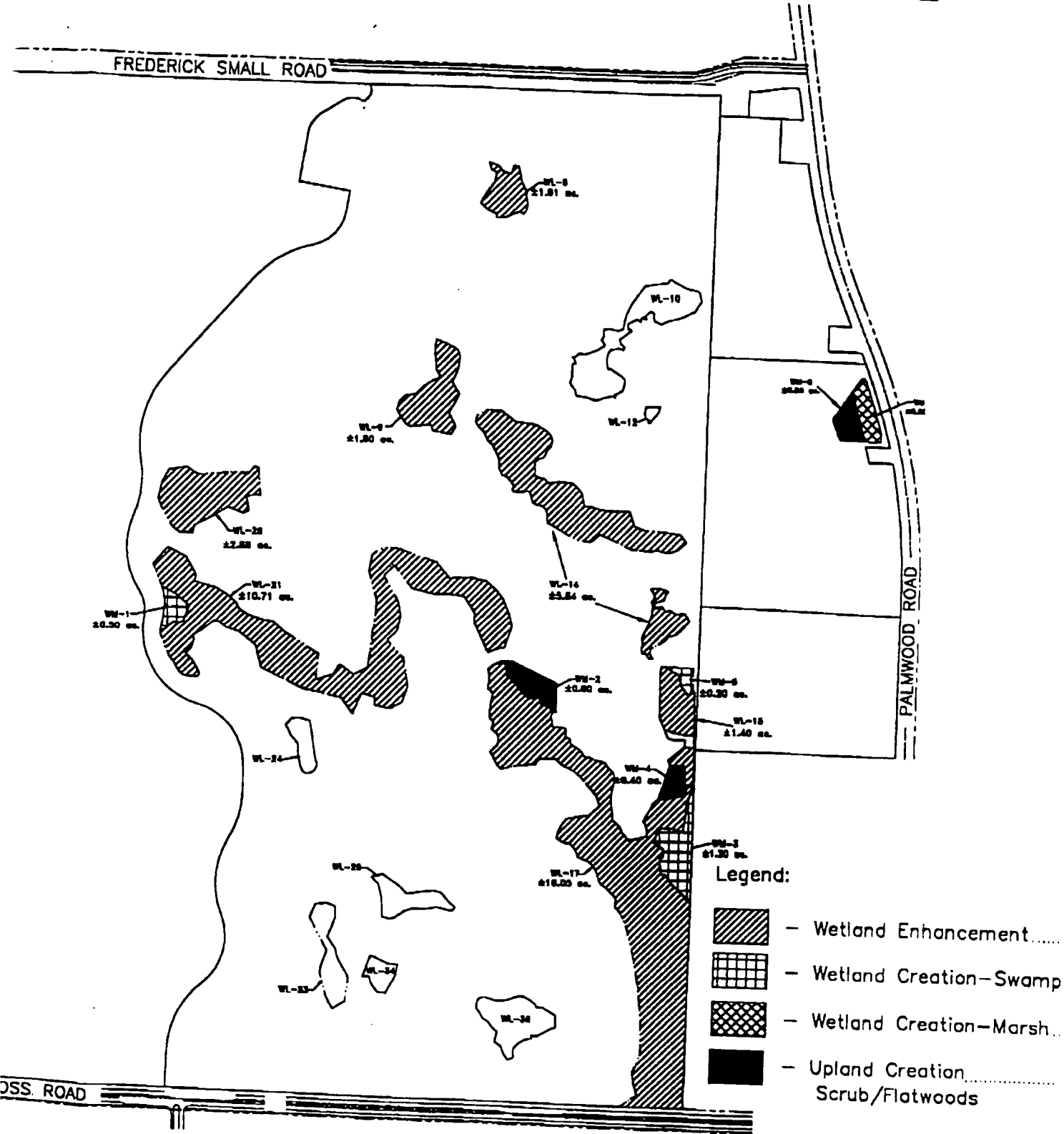
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Drawn by	SLB.	7/1/88
Checked By	H.C.	
Date	7/1/88	

Sheet 5 of 5

Computer File	3405C23
Station	31.5
File Number	3405
Job Number	3405

CORPS PMT # 199803497
DATE 1/20/99
DRAWING PAGE 9 OF 13

JAN-06-1999 16:52 ESI, JUPITER 4077435441 P.04



Zone	Species	Planted Size	Spacing*	#/acre
Deep marsh	Arrowroot lily (<i>Thalia geniculata</i>)	1 gallon	3' o.c.	4800
Deep marsh	Pickerelweed (<i>Pontederia cordata</i>)	1 gallon	3' o.c.	4800
Deep marsh	Duck potato (<i>Sagittaria lancifolia</i>)	1 gallon	3' o.c.	4800
High marsh/ wet prairie	St. Johns wort (<i>Hypericum</i> spp.)	1 gallon	6' o.c.	4800
High marsh/ wet prairie	White-top sedge (<i>Dichromena</i> spp.)	Liner	3' o.c.	4800
High marsh/ wet prairie	Yellow-eyed grass (<i>Xyris</i> spp.)	Liner	3' o.c.	4800
High marsh/ wet prairie	Royal fern (<i>Osmunda regalis</i>)	1 gallon	6' o.c.	2400
High marsh/ wet prairie	Sedges (<i>Rhynchospora</i> , <i>Furienia</i> , <i>Scleria</i>)	Liner	3' o.c.	4800

*plants to be installed in grid-like pattern evenly across the site.

THE BEAR'S CLUB
ON-SITE WETLAND MITIGATION PLAN
TYPICAL MARSH PLANTING DETAIL

JUNE 1998

CORPS PMT # 199803497
DATE 1/20/99
DRAWING PAGE 11 OF 13

Planting
To: Joe Agronate
Fax 941-781-8106
From: Bart Cline/ESS
Phone: (561) 743-5141
Date 1/20/99
of pages 2

JAN-20-1999 09:50

ESI, JUPITER

4077435441 P.01

EXHIBIT 16D

4077435441 P.02

ESI, JUPITER

JAN-20-1999 09:50

Type	Species	Planted Size	Spacing*	#/acre
Tree	Bald cypress (<i>Taxodium distichum</i>)	10 gallon	Random at 20' o.c. rate	130
		18" seedling	Random at 20' o.c. rate	130
Tree	Pond apple (<i>Annona glabra</i>)	18" seedling	Random at 10' o.c. rate	450
Tree	Red maple (<i>Acer rubrum</i>)	18" seedling	Random at 20' o.c. rate	130
Shrub	Buttonbush (<i>Cephalanthus occidentalis</i>)	18" seedling	Random at 10' o.c. rate	450
Herbaceous	Royal fern (<i>Osmunda regalis</i>)	Field	Random at 20' o.c. rate	130
Herbaceous	Blechnum fern (<i>Blechnum serrulatum</i>)	Field harvested plug	Random at 20' o.c. rate	130
Herbaceous	Sawgrass (<i>Cladium jamaicense</i>)	Field harvested 6" plug	Random at 20' o.c. rate	130
Herbaceous	Arrow-arum (<i>Peltandra virginica</i>)	Liner	Random at 20' o.c. rate	130

TOTAL P.02

plants to be installed in pods or aggregations of at least four trees, six shrubs, and eight herbs.

THE BEAR'S CLUB
ON-SITE WETLAND MITIGATION PLAN
TYPICAL SWAMP PLANTING DETAIL

JUNE 1998

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DATE 1/20/99
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BEAR'S CLUB MITIGATION												
Polygon 5		Polygon 9		Polygon 14		Polygon 15		Polygon 17		Polygon 20		
	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj
Wildlife	1.5	1.5	2	2	1.5	2	1	1	1	1	2	1.5
Overstory			2.5	3			0.5	3	0.5	3	2.5	3
Gr. cover	2	2.5	2.5	3	1.5	3	0.5	2.5	0.5	3	2	3
Buffer	2	1	2.5	1.5	2.5	1.25	2.5	1	2.5	1.5	1.5	1
Hydr I.	2	2	2.5	2.5	1.5	1.5	2	2	2	2	2.5	2.5
W.Q.	2.75	1.625	2.75	1.25	2.75	1.25	2.75	2	2.75	2	2.75	2
T tal	10.25	8.63	14.75	13.25	9.75	9	9.25	11.5	9.25	12.5	13.25	13
FCI	0.68	0.58	0.82	0.74	0.65	0.6	0.51	0.64	0.51	0.69	0.88	0.87
Acres	0.86	0.86	1.8	1.7		0.85	1.58	1.4	18.54	17.02	2.99	2.88
Delta		-0.1		-0.08		-0.05		0.13		0.18		-0.01
FCU		-0.09		-0.14		-0.04		0.18		3.06		-0.03
Polygon 21		WM-1		WM-3		WM-5		WM-6		Unit 11		
	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj	w/o proj	w/ proj		
Wildlife	2	2	0	2	0	1	0	1	0	1		
Overstory	1.5	3	0	3	0	3	0	3				
Gr. cover	1.5	3	0	3	0	3	0	2.5	0	2.5		
Buffer	2.5	1	0	1	0	1.5	0	1	0	1.32		
Hydr I.	1.5	1.5	0	1.5	0	2	0	2	0	2		
W.Q.	2.75	1.625	0	1.625	0	2	0	2	0	1.5		
Total	11.75	12.13	0	12.13	0	12.5	0	11.5	0	8.32		
FCI	0.65	0.67	0	0.67	0	0.69	0	0.64	0	0.55		
Acres	12.46	10.8	0.5	0.5	1.3	1.3	0.2	0.2	0.5	0.5	42	
Delta		0.02		0.67		0.69		0.64		0.55	0.25	
FCU		0.22		0.34		0.9		0.13		0.28	10.5	
TOTAL MITIGATION FCU'S					15.31							



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE PERMIT NO. 50-04146-P
DATE ISSUED: DECEMBER 10, 1998**

Tori Agramonte

PERMITTEE: JOHN D. & CATHERINE T. MACARTHUR FOUNDATION
(BEARS CLUB)
4400 PGA BOULEVARD, SUITE 900,
PALM BEACH GARDENS, FL 33410

PROJECT DESCRIPTION: AUTHORIZATION FOR CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM
SERVING 369.2 ACRES OF GOLF COURSE AND RESIDENTIAL DEVELOPMENT KNOWN AS THE BEAR'S CLUB.

PROJECT LOCATION: PALM BEACH COUNTY, SECTION 19.20 TWP 41S RGE 43E

PERMIT DURATION: Five years from the date issued to complete construction of the surface water management system
as authorized herein. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit is issued pursuant to Application No. 980610-12, dated May 29, 1998. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S., between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.614(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and the Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:
SEE PAGES 2-7 OF 11 (32 SPECIAL CONDITIONS).
SEE PAGES 8-11 OF 11 (19 GENERAL CONDITIONS).

FILED WITH THE CLERK OF THE SOUTH
FLORIDA WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

ON Original signed by:
BY Vern Kaiser
DEPUTY CLERK

Original signed by
By TONY BURNS
ASSISTANT SECRETARY

PERMIT NO: 50-04146-P
PAGE 2 OF 11

SPECIAL CONDITIONS

1. MINIMUM BUILDING FLOOR ELEVATION: 10.1 FEET NGVD FOR ALL BASINS.
2. MINIMUM ROAD CROWN ELEVATION: BASIN: NORTH 1 - 8.60 FEET NGVD.
BASIN: NORTH 2 - 8.60 FEET NGVD.
BASIN: SOUTH - 8.30 FEET NGVD.
3. DISCHARGE FACILITIES:
BASIN: NORTH 1:
1-15.3' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 9.3' NGVD.
1-2.24' W X .5' H X 132 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 6.5' NGVD.
RECEIVING BODY : INTRACOASTAL WATERWAY VIA ON-SITE SLOUGH
CONTROL ELEV : 6.5 FEET NGVD.
BASIN: NORTH 2:
1-15.3' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 9.3' NGVD.
1-1.7' W X 1.5' H X 60 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 5.5' NGVD.
RECEIVING BODY : INTRACOASTAL WATERWAY VIA ON-SITE SLOUGH
CONTROL ELEV : 5.5 FEET NGVD.
BASIN: SOUTH:
1-15.3' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 9.3' NGVD.
1-1.7' W X .5' H X 80 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 5.5' NGVD.
RECEIVING BODY : INTRACOASTAL WATERWAY VIA ON-SITE SLOUGH
CONTROL ELEV : 5.5 FEET NGVD.
4. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
5. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
6. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY

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TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.

7. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 4:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE NURTURED OR PLANTED FROM 2 FEET BELOW TO 1 FOOT ABOVE CONTROL ELEVATION TO INSURE VEGETATIVE GROWTH.
8. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
9. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT.
10. SILT SCREENS, HAY BALES OR OTHER SUCH SEDIMENT CONTROL MEASURES SHALL BE UTILIZED DURING CONSTRUCTION. THE SELECTED SEDIMENT CONTROL MEASURES SHALL BE INSTALLED LANDWARD OF THE UPLAND BUFFER ZONES AROUND ALL PROTECTED WETLANDS. ALL AREAS SHALL BE STABILIZED AND VEGETATED IMMEDIATELY AFTER CONSTRUCTION TO PREVENT EROSION INTO THE WETLANDS AND UPLAND BUFFER ZONES.
11. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, THE PERIMETER OF THE PROTECTED WETLANDS AND BUFFER ZONES SHALL BE STAKED AND ROPED TO PREVENT ENCROACHMENT INTO THE WETLANDS. THE PERMITTEE SHALL NOTIFY THE SFWMD'S ENVIRONMENTAL COMPLIANCE STAFF IN WRITING UPON COMPLETION OF ROPING AND STAKING AND SCHEDULE AN INSPECTION OF THIS WORK. THE ROPING AND STAKING SHALL BE SUBJECT TO SFWMD STAFF APPROVAL. THE PERMITTEE SHALL MODIFY THE STAKING AND ROPING IF SFWMD STAFF DETERMINES IT IS INSUFFICIENT OR IS NOT IN CONFORMANCE WITH THE INTENT OF THIS PERMIT. STAKING AND ROPING SHALL REMAIN IN PLACE UNTIL ALL ADJACENT CONSTRUCTION ACTIVITIES ARE COMPLETE.
12. THE SFWMD RESERVES THE RIGHT TO REQUIRE REMEDIAL MEASURES TO BE TAKEN BY THE PERMITTEE IF WETLAND AND/OR UPLAND MONITORING OR OTHER INFORMATION DEMONSTRATES THAT ADVERSE IMPACTS TO PROTECTED, CONSERVED, INCORPORATED OR MITIGATED WETLANDS OR UPLANDS HAVE OCCURRED DUE TO PROJECT RELATED ACTIVITIES.
13. ANY FUTURE CHANGES IN LAND USE OR TREATMENT OF WETLANDS AND/OR UPLAND BUFFER/COMPENSATION AREAS MAY REQUIRE A SURFACE WATER MANAGEMENT PERMIT MODIFICATION AND ADDITIONAL ENVIRONMENTAL REVIEW BY DISTRICT STAFF. PRIOR TO THE PERMITTEE INSTITUTING ANY FUTURE CHANGES NOT AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL NOTIFY THE SFWMD OF SUCH INTENTIONS FOR A DETERMINATION OF ANY NECESSARY PERMIT MODIFICATIONS.
14. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE SUCCESSFUL COMPLETION OF THE MITIGATION WORK, INCLUDING THE MONITORING AND MAINTENANCE OF THE MITIGATION AREAS FOR THE DURATION OF THE PLAN. THE MITIGATION AREA(S) SHALL NOT BE TURNED OVER TO THE OPERATION ENTITY UNTIL THE MITIGATION WORK IS ACCOMPLISHED AS PERMITTED AND SFWMD STAFF HAS CONCURRED.
15. ACTIVITIES ASSOCIATED WITH IMPLEMENTATION OF THE WETLAND MITIGATION, MONITORING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE FOLLOWING WORK SCHEDULE. ANY DEVIATION FROM THESE TIME FRAMES SHALL REQUIRE FORMAL SFWMD APPROVAL. SUCH REQUESTS MUST BE MADE IN WRITING AND SHALL INCLUDE (1) REASON FOR THE MODIFICATION; (2) PROPOSED START/FINISH DATES; AND (3)

PERMIT NO: 50-04146-P
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PROGRESS REPORT ON THE STATUS OF THE EXISTING MITIGATION EFFORTS.

COMPLETION DATE	ACTIVITY
JANUARY 15, 1999	BASELINE MONITORING REPORT
JANUARY 30, 1999	UNIT 11 PAYMENT TO PALM BEACH COUNTY
MAY 10, 1999	SUBMITTAL OF CONSERVATION EASEMENT
NOVEMBER 15, 1999	FIRST MONITORING REPORT (PRESERVED WETLANDS)
APRIL 15, 2000	TIME ZERO MONITORING REPORT FOR UPLAND COMPENSATION/ENHANCEMENT AND BUFFER AREAS
NOVEMBER 15, 2000	SECOND PRESERVED / FIRST CREATED WETLAND MONITORING REPORT
NOVEMBER 15, 2001	THIRD PRESERVED / SECOND CREATED WETLAND MONITORING REPORT
NOVEMBER 15, 2002	FOURTH PRESERVED / THIRD CREATED WETLAND MONTIORING REPORT
NOVEMBER 15, 2003	FIFTH PRESERVED / FOURTH CREATED WETLAND MONITORING REPORT
NOVEMBER 15, 2004	FIFTH CREATED WETLAND MONITORING REPORT

16. ENDANGERED SPECIES, THREATENED SPECIES, OR SPECIES OF SPECIAL CONCERN HAVE BEEN OBSERVED ONSITE AND/OR THE PROJECT CONTAINS SUITABLE HABITAT FOR THESE SPECIES. IT SHALL BE THE PERMITTEE'S RESPONSIBILITY TO COORDINATE WITH THE FLORIDA GAME AND FRESH WATER FISH COMMISSION AND/OR U.S. FISH AND WILDLIFE SERVICE FOR APPROPRIATE GUIDANCE, RECOMMENDATIONS, AND/OR NECESSARY PERMITS TO AVOID IMPACTS TO LISTED SPECIES.
17. IF THE PROJECT DESIGN IS CHANGED AS A RESULT OF OTHER AGENCY REQUIREMENTS, AN ENVIRONMENTAL RESOURCE PERMIT MODIFICATION MAY BE REQUIRED. THE PERMITEE SHALL NOTIFY SFWMD STAFF OF DESIGN CHANGES REQUIRED BY OTHER AGENCIES FOR A DETERMINATION OF ANY NECESSARY PERMIT MODIFICATIONS.
18. THE PERMITTEE SHALL REMIT TO PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT WITHIN NINETY (30) DAYS OF PERMIT ISSUANCE AND PRIOR TO COMMENCEMENT OF ANY WORK INCURRING IMPACT TO ONSITE WETLANDS, A CHECK INTENDED FOR THE ACQUISITION, ENHANCEMENT AND LONG-TERM MANAGEMENT OF 42.0 ACRES OF FRESHWATER WETLANDS LOCATED IN THE UNIT 11 MITIGATION AREA, PALM BEACH COUNTY. IN ADDITION, NO IMPACTS SHALL OCCUR WITHIN THE WETLAND AREA UNTIL EVIDENCE HAS BEEN PROVIDED TO DISTRICT STAFF THAT THE MITIGATION PAYMENT HAS BEEN MADE. THE CHECK SHALL BE IN THE AMOUNT OF \$405,300.00 AND SHALL BE MADE PAYABLE TO THE PALM BEACH COUNTY POLLUTION RECOVERY TRUST FUND.

PAYMENT OF THE MITIGATION FEE IS AN ENFORCEABLE CONDITION OF THIS PERMIT SUBJECT TO DISTRICT COMPLIANCE RULES. FAILURE TO COMPLY WITH CONDITIONS OF THIS PERMIT MAY RESULT IN ENFORCEMENT PENALTIES AND HIGHER MITIGATION COSTS TO THE PERMITTEE.

IF, FOR ANY REASON, PALM BEACH COUNTY IS UNABLE TO ACCOMPLISH THE INTENDED ACQUISITION, ENHANCEMENT AND LONG-TERM MANAGEMENT OF 42.0 ACRES IN UNIT 11, THE PERMITTEE SHALL SUBMIT AN ACCEPTABLE ALTERNATIVE MITIGATION PLAN TO THE SFWMD WITHIN 60 DAYS OF SUCH NOTICE BY THE SFWMD.

19. NO LATER THAN MAY 10, 1999, THE PERMITTEE SHALL SUBMIT A RECORDED COPY OF

PERMIT NO: 50-04146-P
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THE CONSERVATION EASEMENT TO NATURAL RESOURCE MANAGEMENT DIVISION POST PERMIT COMPLIANCE STAFF IN THE SERVICE CENTER WHERE THE APPLICATION WAS SUBMITTED. THE RECORDED EASEMENT SHALL BE IN SUBSTANTIAL CONFORMANCE WITH EXHIBIT 22A-RR. ANY PROPOSED MODIFICATIONS TO THE APPROVED FORM AND ATTACHMENTS MUST RECEIVE PRIOR WRITTEN CONSENT FROM THE DISTRICT.

THE EASEMENT SHALL BE FREE OF ENCUMBRANCES OR INTERESTS WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT. IN THE EVENT IT IS LATER DETERMINED THAT THERE ARE ENCUMBRANCES OR INTERESTS IN THE EASEMENT WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT, THE PERMITTEE SHALL BE REQUIRED TO PROVIDE RELEASE OR SUBORDINATION OF SUCH ENCUMBRANCES OR INTERESTS.

20. A MAINTENANCE PROGRAM SHALL BE IMPLEMENTED IN ACCORDANCE WITH EXHIBITS 18 & 21 FOR THE RESTORED AND ENHANCED WETLAND AREAS ON A REGULAR BASIS TO ENSURE THE INTEGRITY AND VIABILITY OF THE CONSERVATION AREAS AS PERMITTED. MAINTENANCE SHALL BE CONDUCTED IN PERPETUITY TO ENSURE THAT THE CONSERVATION AREAS ARE MAINTAINED FREE OF EXOTIC VEGETATION (INCLUDING, BUT NOT LIMITED TO THOSE SPECIES DEFINED BY THE FLORIDA EXOTIC PEST PLANT COUNCIL AT THE TIME OF ISSUANCE OF THIS PERMIT) IMMEDIATELY FOLLOWING A MAINTENANCE ACTIVITY AND THAT EXOTIC AND OTHER NUISANCE PLANT SPECIES SUCH AS PRIMROSE WILLOW, CATTAILS AND GRAPE VINE SHALL CONSTITUTE NO MORE THAN 5% OF TOTAL VEGETATION COVER BETWEEN MAINTENANCE ACTIVITIES.
21. WITH THE EXCEPTION OF THE BULKHEADED AREA FOR THE TENTH GREEN (EXHIBIT 8), THE PERMITTEE SHALL ENSURE THAT ALL PRESERVED WETLANDS WILL BE PROTECTED WITH A 15-FOOT MINIMUM / 25-FOOT AVERAGE WIDTH UPLAND BUFFER.
22. ANY CHANGES TO THE TWENTY-FIVE FOOT UPLAND BUFFER AROUND WETLAND AREAS, AS A RESULT OF GOLF COURSE HOLE CHANGES OR REALIGNMENT, SHALL REQUIRE APPROVAL FROM DISTRICT POST PERMIT COMPLIANCE STAFF. THE AREA OF BUFFER TO BE CHANGED MUST BE STAKED AND APPROVED PRIOR TO CONSTRUCTION. IN ADDITION, THE UPLAND BUFFER OF THE WETLAND AFFECTED MUST BE EXPANDED IN OTHER AREAS TO PROVIDE THE REQUIRED TWENTY-FIVE FOOT AVERAGE UPLAND BUFFER. UNDER NO CIRCUMSTANCES SHALL THE PROPOSED BUFFER CHANGES ENCROACH INTO THE FIFTEEN-FOOT MINIMUM UPLAND BUFFER WIDTH. THE PERMITTEE SHALL PROVIDE SUFFICIENT NOTIFICATION (1-2 WEEKS) TO DISTRICT POST-PERMIT COMPLIANCE STAFF IN ADVANCE OF ANY ANTICIPATED FIELD CHANGES. UPON COMPLETION OF GOLF COURSE CONSTRUCTION, REVISED LEGAL DESCRIPTIONS AND SKETCHES WILL BE PROVIDED AND LETTER MODIFICATION REQUESTED TO AMEND THE CONSERVATION EASEMENT.
23. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, THE PERMITTEE SHALL CONDUCT A PRE-CONSTRUCTION MEETING WITH FIELD REPRESENTATIVES, CONTRACTORS AND DISTRICT STAFF. THE PURPOSE OF THE MEETING WILL BE TO DISCUSS THE TYPE AND LOCATION OF TURBIDITY AND EROSION CONTROLS TO BE IMPLEMENTED DURING CONSTRUCTION WITH THE APPLICANT AND CONTRACTORS. THE FENCING AND CONSTRUCTION SETBACK REQUIREMENTS FOR THE UPLAND BUFFER ZONES AND WETLANDS THROUGHOUT THE SITE WILL ALSO BE DISCUSSED AT THE MEETING.
24. MAINTENANCE OF WETLAND AND UPLAND BUFFERS FOR GOLF HOLE FLYOVERS, AS SHOWN IN EXHIBIT 17, CAN BE MAINTAINED TO A MINIMUM OF 3 FEET ABOVE NATURAL GRADE IN THE UPLAND BUFFER AREAS AND 3 FEET ABOVE SEASONAL HIGH WATER LEVEL OF EACH WETLAND. ALL NATIVE VEGETATION BELOW THE 3 FOOT HEIGHT ARE TO REMAIN IN AN UNDISTURBED NATURAL CONDITION. MAINTENANCE AND REMOVAL OF EXOTIC AND

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NUISANCE PLANT SPECIES WITHIN THESE AREAS IS ACCEPTABLE BELOW THE 3-FOOT HEIGHT RESTRICTION AREA. IN THE EVENT THAT THE FUNCTIONS AND VALUES OF THE WETLANDS OR UPLAND BUFFERS ARE ADVERSELY AFFECTED BY THE 3-FOOT HEIGHT RESTRICTION, THEN AN ADDITIONAL HEIGHT RESTRICTION MAY BE REQUIRED WITHIN THE FLYOVER AREAS.

25. PRIOR TO CONSTRUCTION PERMANENT MARKERS SHALL BE PLACED AT THE UPLAND EDGE OF ALL PRESERVED WETLANDS. THESE MARKER WILL BE USED TO VERIFY UPLAND BUFFER WIDTHS AND ESTABLISH A PERMANENT REFERENCE FOR THE WETLAND EDGE. PLACEMENT OF THESE MARKERS MUST BE VERIFIED BY DISTRICT POST PERMIT COMPLIANCE STAFF.
26. DURING THE CONSTRUCTION PHASE THE PERMITTEE SHALL ENSURE THAT THE CONSTRUCTION ACTIVITIES DO NOT DEVIATE FROM THE APPROVED PLANS. IN THE EVENT, THAT THE PERMITTEE DESIRES CHANGE TO THE APPROVED UPLAND BUFFER ZONES, THEN THE PERMITTEE SHALL RECEIVE PRIOR APPROVAL FROM DISTRICT STAFF BEFORE ANY SUCH MODIFICATIONS OCCUR. ALL MODIFICATIONS TO UPLAND BUFFER ZONES SHALL BE ACCOMPLISHED BY REQUESTING A LETTER MODIFICATION TO THE PERMIT.
27. ALL WETLAND MITIGATION AREAS WILL ACHIEVE AN EIGHTY PERCENT (80%) COVERAGE OF DESIRABLE OBLIGATE AND FACULTATIVE WETLAND VEGETATION BY THE END OF THE SECOND YEAR OF MONITORING. IN ADDITION SUPPLEMENTAL PLANTING OF THE APPROPRIATE WETLAND, TRANSITIONAL OR UPLAND VEGETATION WILL BE PROVIDED WHENEVER THE TOTAL VEGETATION COVERAGE IN NUISANCE AND EXOTIC VEGETATION REMOVAL AREAS FALLS BELOW EIGHTY PERCENT (80%) IN THE REMOVAL AREA. SUPPLEMENTAL PLANTINGS SHALL BE APPROVED BY THE DISTRICT ENVIRONMENTAL COMPLIANCE STAFF PRIOR TO THE INSTALLATION OF THE PLANT MATERIAL.
28. ALTHOUGH DEWATERING IS NOT PROPOSED, SHOULD DEWATERING BE REQUIRED NO DEWATERING EFFLUENT SHALL BE DIRECTED INTO PRESERVED WETLANDS OR UPLAND BUFFERS.
29. NO LATER THAN FEBRUARY 15, 1999, THE PERMITTEE SHALL SUBMIT AN ORIGINAL LETTER OF CREDIT IN THE AMOUNT OF \$353,100. THIS AMOUNT REPRESENTS THE ESTIMATED COST OF THE COMPLETION OF THE ONSITE MITIGATION PROGRAM, FIVE YEARS OF MONITORING AND MAINTENANCE (INCLUDING SUBMITTAL OF REPORTS) AND A 10% CONTINGENCY ESTIMATE. THE LETTER OF CREDIT SHALL BE IN CONFORMANCE WITH THE APPROVED FORM AS SHOWN ON EXHIBIT 23 A-E.
30. UPON COMPLETION OF GRADING FOR THE RESIDENTIAL LOTS AND ROADWAYS, THE PERMITTEE SHALL SURVEY THE UPLAND COMPENSATION/ENHANCEMENT AREAS TO PROVIDE ASSURANCES THAT THE SIZE MEETS OR EXCEEDS THE AREA IDENTIFIED IN THIS STAFF REPORT. IN ADDITION, THE PERMITTEE SHALL INSTALL PERMANENT MARKERS (SIGNS) AT THE INTERFACE OF THE RESIDENTIAL LOTS AND UPLAND PRESERVE AREAS.
31. WITHIN 30 DAYS OF PERMIT ISSUANCE, THE PERMITTEE SHALL SUBMIT A REVISED MITIGATION PLAN THAT SUBSTITUTES UPLAND ENHANCEMENT/COMPENSATION FOR THE WETLAND CREATION AREAS SHOWN ON THE PLANS. THE REVISED MITIGATION PLAN SHALL INCORPORATE THE UPLAND ENHANCEMENT/COMPENSATION AREAS INCLUDING LONG-TERM PERPETUAL MANAGEMENT, MAINTENANCE, EXOTIC SPECIES REMOVAL AND REPLANTING (AS NEEDED). ENHANCEMENT/REVEGETATION SHALL BE PERFORMED WITH THE PLANT SPECIES IDENTIFIED ON EXHIBITS 18C AND 18D. ALL UPLAND REVEGETATION AREAS SHALL BE REVIEWED AND APPROVED BY DISTRICT STAFF.

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CHANGES TO THE COST ESTIMATE AND FINANCIAL ASSURANCE MECHANISM SHALL ALSO BE SUBMITTED TO REFLECT THIS CHANGE.

32. THE IMPERMEABLE BARRIERS SHALL EXTEND INTO THE GROUND UNTIL AN APPROVED CONFINING SOILS LAYER IS ENCOUNTERED (EXHIBIT 12). THE PERMITTEE SHALL CONTACT THE DISTRICT'S POST PERMIT COMPLIANCE STAFF FOR APPROVAL OF CONFINING SOILS PRIOR TO PLACEMENT OF ANY BARRIER.

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GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA AS APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988). INCORPORATED BY REFERENCE IN RULE 40E-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0960 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.
6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY, THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND

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CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO.0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF ASBUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "ASBUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.

7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE: UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE

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DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.

10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER 40E-4 OR CHAPTER 40E-40, F.A.C.
12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR OTHER STATE-OWNED LANDS.
13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.
16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH

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PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.

18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

ENVIRONMENTAL RESOURCE PERMIT

CHAPTER 40E-4 (10/95)

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to Chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit, or
2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, 10-3-95

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE BEAR'S CLUB DEVELOPMENT CO.,
THE BEAR'S CLUB BUILDERS LLC;
BEAR'S CLUB MANAGEMENT CORP.;
CLARENDON PROPERTIES GROUP, INC;
THE BEAR'S CLUB FOUNDING PARTNERS, LTD;
IVAN CHARLES FREDERICKSON;
IRA FENTON; and
ROBERT B. WHITLEY

Defendants.

CIVIL COMPLAINT COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 14, 2003? _____ Yes X No
2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to September 1, 2007? _____ Yes X No

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

BY: /s/ Carlos Raurell

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